

REMARKS

These remarks submitted herewith are submitted in response to the Office Action of December 16, 2004, and are believed to overcome all of the issues set forth therein.

Claims 1-12 are currently pending in the above-captioned application. The Office Action provisionally rejected Claims 1 and 2 under the judicially created doctrine of obviousness-type double patenting as being assertedly unpatentable over Claims 1, 7 and 8 of co-pending Application No. 10/194,652 in view of Linz, U.S. Patent No. 5,536,157, ("Linz").

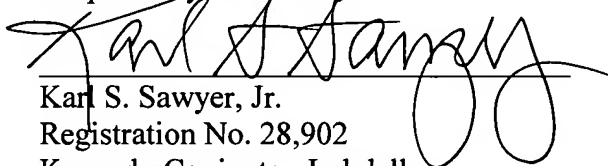
The Office Action indicated that Claims 1 and 2 would be allowed following the Applicant's filing of a Terminal Disclaimer. The Applicant filed a Terminal Disclaimer on July 29, 2004, however, the Examiner did not accept the Terminal Disclaimer because assertedly the person who signed the terminal disclaimer was not recognizable as an officer of the assignee. Accordingly, the Applicant filed a revised Terminal Disclaimer on December 2, 2004 which identified the signatories as chief executive officers of the assignee. However, the Examiner again did not accept the Terminal Disclaimer because assertedly the person who signed the terminal disclaimer was not recognizable as an officer of the assignee under MPEP §324. The Examiner further noted that a C.E.O. is not an authorized officer empowered to act on behalf of an assignee.

The Applicant submits that, in fact, a chief executive officer is an authorized officer empowered to act on behalf of an assignee. Pursuant to MPEP §324, the subsection entitled "Party Who Must Sign", "[t]he submission may be signed by a person in the organization having apparent authority to sign on behalf of the organization. 37 CFR 3.73(b)(2)(ii). An officer (**chief executive officer**, president, vice-president, secretary, or treasurer) is presumed to have authority to sign on behalf of the organization." (emphasis added). Accordingly, the Applicant submits

that the revised Terminal Disclaimer as filed overcomes the provisional rejection based on obviousness-type double patenting and is in compliance with 37 CFR 1.321(c).

The Applicant believes Claims 1 and 2 and all claims depending therefrom should now be in condition for allowance. In view of the foregoing, it is respectfully submitted that the standing claims are in condition for allowance and reconsideration is requested. An early notice to this effect is earnestly solicited. Should there be any questions regarding this application, the Examiner is invited to contact the undersigned at the number shown below.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Karl S. Sawyer, Jr.", with a large, stylized "O" at the end.

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